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KNOBBE MARTENS OLSON & BEAR L L P
620 NEWPORT DR 16TH FLOOR
NEWPORT BEACH, CA 92660

EXAMINER

DAS, CHAMELI

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2122

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/318,438

Applicant(s)

PITZEL ET AL.

Examiner

C.DAS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. This action is in response to the amendment filed on 7/17/02.
2. Claims 5 and 7 have been amended.
3. New claims 41-46 have been added.
4. A new ground of rejection has been provided in response to the applicant's declaration under 37 C.F.R 1.131.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 1-2, 5-14, 16-21, 24-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheng et al (Cheng), US 6,151,643

As per claim 1, Cheng discloses:

- receiving a request for the upgrade of one or more components (column 17, lines 40-41, "The client application 104 requests, for a software product to be updated") and (column 19, lines 52-54, "requesting notification about software updates for specific products")

- determining one or more system conditions regarding the computer; and identifying one or more components for installations on the computer based upon the request and the

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system conditions (column 20, lines 1-11, “information about the software update ... verifies its integrity, and installs the software update directly”).

Claim 20 is the system claim corresponding to the method claim 1, and rejected under the same reason set forth in rejection of the claim 1.

As per claim 2, 21, 33, Cheng discloses:

- *receiving a configuration file that is associated with the request as claimed* (column 8 lines 56-61, “software update is physically installed on the client computer 101. Each software update is associated with information that describes that particulars for the installations, such as configuration, decompression or other information. The installation is performed in conformance with such information”), update (requested by client) is installed on the client computer and each update is associated with configuration information shows that receiving a configuration file that is associated with the request for the upgrade.

As per claim 5, 6, 7, 24, 25, 36, 37, Cheng discloses:

- *reading only an identifier in the configuration file* (column 11, lines 38-46)

- *sending at least a portion of the content of the configuration file to a component server* (column 6, lines 24-26, “the client computer includes a **client application 104 that communicates with the service provider** computer 102), where **client application is the portion of the configuration file** (column 7, lines 55-56) and **service provider is the**

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component server, the client application interacts with the server indicates that sending the portion of the configuration file to the server as claimed.

As per claim 8, 26, Cheng discloses:

- *storing the configuration file* (column 4 lines 51-59, "The update database of software update information is preferably maintained ... configuration information").

As per claim 9, 27, Cheng teaches:

- *system condition includes one or more computer readable modules* (column 13, lines 40-42, " The client application 104 may be provided to the client computer 101 on a **computer readable media**")

As per claim 10, 28, Cheng teaches:

- *language that is associated with one or more computer readable modules resides on the computer* (column 13, lines 40-42), where client application is stored in computer readable medium in a computer inherently including client application is written in a language which is readable by a computer.

As per claim 11, 29, Cheng teaches:

- *system includes operating system that is executing* (column 10, lines 4-5, "The service provider computer 102 **executes a conventional operating system** 721").

As per claim 12, 30, Cheng teaches:

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- *identifying one or more programs upon receiving the request as claimed* is shown in Abstract, lines 7-17), upon receiving the request is shown in column 17, lines 40-41.

As per claim 13, Cheng teaches computer having one or more system resources is shown in Fig 2 and column 5 lines 38-40, where client computer is the first computer

- *second computer operably connected to the first computer* as claimed is shown in fig 1, where client computer is the first computer and service provide computer is the second computer

- *second computer associated with one or more installable components* is shown in Abstract lines 17, the updates are installable is shown in Abstract lines 1-3

- *configuration file is readable by the first computer* is shown in (column 13, lines 40-42, “The client application 104 may be provided to the client computer 101 on a **computer readable media**”), where the client application is the part of a configuration file and client computer is the first computer

- *configuration file identifying at least one requested component* (Abstract lines 7-12), where update database information contains the configuration file

- *an upgrade manager executing on the first computer, the upgrade manager configure to transmit information about the system resources of the first computer to the second computer* (column 5 lines 10-17), where the **client application is the upgrade manager** and it connect to a update database shows that it connects to a second computer because the update data base is stored in the server computer (Abstract lines 7-8)

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- an upgrade handler executing on the second computer, the upgrade handler configure to transmit the location of one or more installable components from the second computer to the first computer based upon the at least one requested component as claimed (column 3, lines 64-67, column 4 lines 1-6, column 4, lines 51-67), where **update information is the upgrade handler** and it executes periodically in service provider (server computer, which is a second computer), the update information provides the download information of the installable component to the client computer (first computer) from vendors.

As per claim 14, Cheng teaches:

- configuration file is formatted is shown in column 5 line 2-6.

As per claim 16, Cheng teaches upgrade managers retrieves the configuration file (column 5, lines 10-15).

As per claim 17, Cheng teaches upgrade managers parse the configuration file (column 20, lines 4-12).

As per claim 18, Cheng teaches network as claimed is shown in Abstract, lines 4-7.

As per claim 19, Cheng teaches client computer operably connected to the network, identifying one or more client computer, component server, identifying the location of one or more components as claimed is shown in Abstract, column 8, lines 55-61.

As per claim 38, Cheng teaches client computer having processor, computer readable storage, data communication is shown in column 13, lines 1-16, for the rest of the limitations, see the rejection of claim 13 and 19 above.

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As per claim 39, Cheng teaches a server computer has the same feature as the client computer is shown in Figure 7, for the rest of the limitations, see the rejection of claim 13 and 19 above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 4, 15, 22, 23, 31, 32, 34, 35, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al (Cheng) (US 6,151,643) in view of Stratton et al (Stratton) (US 6,246,770).

As per claim 3, 4, 15, 22, 23, 34, 35, Cheng discloses the determining software with associated with the file date (column 18, lines 49-54) . Cheng does not specifically teach determining the expiration time and stopping the identification step. However, Stratton discloses the expiration date associated with the file and stopping the action (Abstract, lines 12-16) and (column 2 lines 51-56).

It would have been obvious to one of the ordinary skill in the art at the time of invention was made to incorporate the teaching of Stratton into the method of Cheng having expiration time associated with the file because one of the ordinary skill in the art would want to install the current version of the software and avoid old version.

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As per claim 31, Cheng discloses:

- configuration file identifying one or more components for installation on a client computer (Abstract lines 1-26)

- a plurality of components identifiers as claimed (Abstract lines 7-17)

Cheng does not specifically teach determining the expiration time and stopping the identification step. However, Stratton discloses the expiration date associated with the file and stopping the action (Abstract, lines 12-16) and (column 2 lines 51-56).

It would have been obvious to one of the ordinary skill in the art at the time of invention was made to incorporate the teaching of Stratton into the method of Cheng having expiration time associated with the file because one of the ordinary skill in the art would want to install the current version of the software and avoid old version.

For claim 32, see the rejection of claim 1 above.

As per claim 40, Cheng discloses:

- a system for identifying components for installation (abstract, lines 1-11)

- a configuration server having a processor, a computer readable storage medium and data communication subsystem (Fig 7 clearly shows the service provider (server) comprises a memory (computer readable storage), processor and network communication (data communication) system)

- a configuration file maintained by the configuration server on the computer readable storage medium (Fig 7, where DB modification tools, update database user profile database are

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all the part of the configuration file, which are maintained by the service provider (configuration server)

- configuration file identifying one or more components for installation on a client computer (Abstract lines 1-26)

- configuration file comprising a plurality of components identifiers as claimed
(Abstract lines 7-17)

- configuration server transmits the file as claimed (column 6, lines 10-30, column 8, lines 55-60, and column 17, lines 40-42).

Cheng does not specifically teach determining the expiration time and stopping the identification step. However, Stratton discloses the expiration date associated with the file and stopping the action (Abstract, lines 12-16) and (column 2 lines 51-56).

It would have been obvious to one of the ordinary skill in the art at the time of invention was made to incorporate the teaching of Stratton into the method of Cheng having expiration time associated with the file because one of the ordinary skill in the art would want to install the current version of the software and avoid old version.

As per claim 41, Cheng discloses:

- determining one or more client conditions regarding the computer (column 17, line 40-55)

- transmitting the request for the upgrade as claimed (column 19, lines 50-55, column 17, lines 40-42)

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- identifying one or more components for installation (column 18, lines 42-45).

As per claim 42, Cheng discloses:

- receiving a configuration file in response to the request for the upgrade (column 18, lines 16-45).

As per claim 45, 46, Cheng discloses:

- sending at least some of the contents of the configuration file to a component server as claimed (column 10, lines 55-60) and column 10 lines 17, the service provide computer (server) includes the updated data base information inherently including sending some contents of the configuration file to the server as claimed.

As per claim 43, 44

Cheng does not specifically teach determining the expiration time and stopping the identification step. However, Stratton discloses the expiration date associated with the file and stopping the action (Abstract, lines 12-16) and (column 2 lines 51-56).

It would have been obvious to one of the ordinary skill in the art at the time of invention was made to incorporate the teaching of Stratton into the method of Cheng having expiration time associated with the file because one of the ordinary skill in the art would want to install the current version of the software and avoid old version.

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Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Method and apparatus for storing and delivering documents on the Internet, US 6038601

TITLE: Configuring a wireless computer network to allow automatic access by a guest client device, US 6463473 B1

TITLE: Method and apparatus for feature configuration in remotely located ultrasound imaging system , US 6246770 B1

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TITLE: Imaging apparatus using reusable software architecture and method of providing software control for a plurality of imaging products, US 5457778 A

TITLE: Method and apparatus for automatically updating software components on end systems over a network , US 6009274 A


TITLE: Automatic updating of diverse software products on multiple client computer systems by downloading scanning application to client computer and generating software list on client computer, US 6151643 A

TITLE: Data management method for adding or exchanging components on a running computer, US 6058445 A

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339. The examiner can normally be reached on Monday-Friday from 8:00 A.M to 4:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Greg Morse can be reached at 703-308-4789. The fax number for this group is 703-746-7239. An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

CDAS

10/14/02


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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